

**IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION**

GLEN SEARCY AND NADINE SEARCY)	
)	
Plaintiffs,)	Case No. 4:10-cv-00199
)	
v.)	
)	
MID-AMERICA EYE CENTER, P.C. and)	
JOSEPH J. PARELMAN, M.D.)	
)	
Defendants.)	

NOTICE OF REMOVAL

Pursuant to 28 U.S.C. §1441 *et seq.*, Defendants Mid-America Eye Center, P.C. and Joseph J. Parelman, M.D. file this Notice of Removal of this action from the Circuit Court of Jackson County, Missouri at Independence, Missouri – where this case is currently pending under the case styled *Glen Searcy and Nadine Searcy v. Mid-America Eye Center, P.C. and Joseph J. Parelman, M.D.*, Circuit Court Case No. 1016-CV01178 – to the United States District Court for the Western District of Missouri. In support of this Notice of Removal, Defendants state as follows:

I. INTRODUCTION

1. Defendants desire to exercise their right under the provisions of 28 U.S.C. §§1441 *et. seq.*, to remove this case from the Circuit Court of Jackson County, Missouri, at Independence, Missouri. 28 U.S.C. §1441(a) provides in pertinent part:

Except as otherwise expressly provided by Act of Congress, any civil action brought in a State court of which the district courts of the United States have original jurisdiction, may be removed by the defendant or the defendants, to the district court of the United States for the district and division embracing the place where such action is pending.

2. This civil action has not been tried. Plaintiffs filed their Petition for Damages on January 14, 2010. Defendant Mid-America Eye Center, P.C. (“Mid-America”) was served with Plaintiffs’ Petition on February 2, 2010. Defendant Joseph J. Parelman, M.D. was served with Plaintiffs’ Petition on February 3, 2010. Rather than challenge service of process, Defendants voluntarily appear in this action, but hereby reserve all objections, arguments, and defenses to Plaintiffs’ Petition. A responsive pleading will be filed in accordance with Rule 81 of the Federal Rules of Civil Procedure.

II. NOTICE OF REMOVAL IS TIMELY

3. The time in which Defendants are required by the laws of the State of Missouri, by the Missouri Rules of Civil Procedure, or by the Rules of the Circuit Court of Jackson County, to move, answer or otherwise plead in response to Plaintiffs’ Petition has not elapsed.

4. In accordance with the requirements of 28 U.S.C. § 1446(b), this Notice of Removal is timely filed within thirty (30) days after the receipt by any defendant, through service, of a copy of the initial pleading setting forth the claim for relief on which Plaintiffs’ action is based.

III. DIVERSITY JURISDICTION EXISTS

5. This Court has original jurisdiction over this civil action pursuant to 28 U.S.C. § 1332 because the amount in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs, and is between citizens of different states.

6. Plaintiffs Glen and Nadine Searcy are citizens and residents of the State of Missouri. Defendant Joseph A. Parelman, M.D. is a citizen and resident of the State of Kansas. Defendant Mid-America, a Kansas Corporation with its principle place of business in the state of

Kansas, is a citizen of the State of Kansas. Complete diversity of citizenship therefore exists.
See 28 U.S.C. §§1332, 1348.

7. Upon information and belief, the \$75,000 amount-in-controversy requirement found in 28 U.S.C. § 1332 is satisfied because Plaintiffs' Petition seeks damages for permanent physical injuries, past and future medical expenses, and past and future non-economic damages. Specifically, plaintiffs allege that defendants caused Glen Searcy to suffer "total loss of vision in his left eye" which is "permanent" and causes "pain, discomfort and disability," that Mr. Searcy's "ability to engage in physical activities has been substantially and permanently impaired," that Mr. Searcy "has suffered serious and permanent damage to his ability to enjoy life," that Mr. Searcy's "mental and emotional condition has been adversely affected due to the loss of vision in his left eye," and that Mr. Searcy "has incurred medical expenses and will incur medical expenses in the future." (Petition at ¶9). In addition, plaintiffs allege that Nadine Searcy suffered in that she "was caused to shoulder additional physical and emotional burden and responsibility of caring for her injured husband, household chores, maintenance and upkeep" and in that the Searcy's "marital relationship was adversely affected due to the financial and emotional stress caused by the unnecessary and needless period of pain, disability, and inactivity that her husband was forced to suffer." (Petition at Count II, ¶3).

IV. REMOVAL TO THIS DISTRICT IS PROPER

8. Pursuant to 28 U.S.C. §§ 1441 *et seq.*, the right exists to remove this case from the Circuit Court of Jackson County, Missouri at Independence, Missouri, to the United States District Court for the Western District of Missouri, which embraces the place where the action is pending.

V. MISCELLANEOUS

9. Pursuant to 28 U.S.C. § 1446(a), a copy of all process, pleadings, and orders served on Defendants – including a copy of the Petition bearing Case No. 1016-CV01178 – is attached to this Notice of Removal as Exhibit A.

10. Written notice of the filing of this Notice of Removal will be promptly served on counsel for plaintiffs as required by law.

11. A true and correct copy of this Notice of Removal will be promptly filed with the Clerk of the Circuit Court of Jackson County, Missouri at Independence, Missouri, as required by law, and served on Plaintiffs.

12. Defendants reserve the right to amend or supplement this Notice of Removal, and Defendants reserve all defenses.

13. Defendants request a trial by jury on all issues triable by right to a jury trial.

WHEREFORE, defendants Mid-America Eye Center, P.C. and Joseph J. Parelman, M.D. pray that this case be removed from the Circuit Court of Jackson County, Missouri at Independence, Missouri, where it is now pending, to this Court, that this Court accept jurisdiction of this action, and that this action be placed on the docket of this Court for further proceedings, same as though this case had originally been instituted in this Court.

Respectfully submitted,

/s/ Thomas A. Rottinghaus

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ATTORNEY FOR DEFENDANTS

MID-AMERICA EYE CENTER, P.C. and

JOSEPH J. PARELMAN, M.D.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was filed electronically with the above-captioned court, and a copy was sent via hand delivery, this 2nd day of March, 2010, to:

Daniel R. Brown
401 W. 58 Highway
P.O. Box 560
Raymore, MO 64083

/s/ Thomas A. Rottinghaus

Attorney for Defendant